

There are also references in the inscriptions to the corporate organisation of an entire Sub-Division or District.*

7. (a) The various South Indian Inscriptions clearly establish the existence of such local bodies till, and even sometime after, the 11th century A. D. For instance the Travancore inscription already referred to, is of the 12th century A. D. Subsequently the various Mohomedan invasions, and the establishment of the Moghul Rule in India, were not conducive to the growth of these institutions, and the importance of these representative institutions slowly receded to the background, with the result that what remained of these institutions at the time of the acquisition of territory by the East India Company, and the subsequent assumption of sovereignty by Parliament in 1858, was only the Village Panchayat with very limited functions.

(b) In the light of the foregoing paragraphs, we may venture to differ from the statement of Lord Meston† that "they (isolated Republican States) seem to have disappeared before the Christian era, and certainly during the period of conscious history there is neither record of democratic institutions nor traditions of elective Government." As Mr. Mazumdar puts it admirably, "gradually things have to come to such a pass that it requires very great effort to believe, even when sufficient evidence is forthcoming, that institutions which we are accustomed to look upon as of western growth, had also flourished in India."

CHAPTER II.

The rise of the East India Company and the exercise of Sovereign functions by the Company till its transfer to the Crown.

8. A detailed account of the growth of the East India Company and its gradual transition, from a position of tenants of factories to that of territorial sovereigns, belongs properly to the realm of history. In this chapter it is proposed to refer, very briefly, to the gradual development of the executive and legislative functions of the Company. The first charter was granted during the reign of Queen Elizabeth in 1600 for a period of 15 years, and the charter was renewed from time to time. The persons to whom the charter was granted were constituted to form a body corporate by the name of Governor and Company of merchants of London trading in the East Indies, and this corporate body had a

* *Vide* references to the reports of the Government Epigraphist given in Mazumdar's book, pp. 82 to 85.

† "New Constitution of India" by Ilbert and Meston, p. 98.

common seal. The Company was to elect, every year, one Governor, a Deputy Governor, and a Committee consisting of 24 persons. The Committee was the predecessor of the Court of Directors. The general body of the Company, consisting of all the members, was styled the Court of Proprietors. The Governor was to preside over this assembly or Court. The charter conferred power on the Company to make reasonable 'laws, constitutions, orders and ordinances' not repugnant to the laws, statutes and customs of the English realm.

The Company established trading depots or factories in various parts of India.

9. In the first instance, these factories were merely a few acres of land occupied by the Company's warehouses and the residences of their officers, and they were held only under favour of the Indian Sovereign of the territories in which they were situated.

In course of time, the factories at Madras, Bombay and Calcutta became the chief factories, and factories at other places were placed under the subordination of these three factories. The charter of 1661 conferred on the Company 'power and command' over their fortresses, and authority to appoint Governors and other officers for their Government.

Accordingly, each of these three Presidencies was under a President or Governor, and a Council appointed by Commission of the Company, and consisting of its superior servants.

10. At first the Company was merely concerned with protecting their trade interests. But during the decline of the Moghul power from the closing years of Aurangzeb's reign, forces of rebellion and unrest all over India necessitated the consolidation of the power of the Company on the basis of territorial Sovereignty, in order that they may, on the one hand, resist the oppression of the Moghuls and the Maharattas, and, on the other, get over the competition of the French and the Dutch.

We have seen that the charters were granted, from time to time, by the King or Queen of England, and Parliament did not, at first, exercise any control over the Company. It will be interesting to know when control by the King or Queen ceased, and control by Act of Parliament commenced. The charters granted by the Sovereign, from time to time, conferred on the Company the exclusive privilege of trading in the East Indies. Rival Companies were started, and the Directors of the East India Company, claiming a monopoly by reason of the provisions in the charter, seized a ship '*Red-bridge*', belonging to a rival Company. The legality was questioned, and the matter was brought before Parliament. The House of Commons passed a resolution that

all subjects have an equal right to trade in the East Indies, unless prevented by an Act of Parliament. Parliament exercised this right in 1698 and passed an Act under which a new company was formed. The old and new companies were amalgamated in 1702. Though Parliamentary authority was recognised as early as 1698, Parliament did not assert its rights to interfere in the affairs of the Company till 1767. In 1767 Parliament passed five Acts with reference to Indian affairs. These Acts related only to certain details such as qualification of a member to vote at a meeting of the Company, declaration of dividend, and such like matters. But it was only by the Regulating Act of 1773 that the British Parliament directly interposed in Indian affairs, and the British Nation, represented by Parliament, assumed actual responsibility for the Government of India.

Commencement of Parliamentary Control over the affairs of the Company.

11. Till 1772 the three Presidencies of Bengal, Bombay and Madras were independent of each other. The Government of each was absolute within its own limits, and responsible only to the Company or the Court of Directors in England, and the General Court of Proprietors.

The Governor-in-Council of each of these Presidencies had powers, by Commission from the Company, to administer law for the Government of the territories within their Province.

The Regulating Act. 12. Under the Regulating Act the following changes were introduced in the constitution of the Company :—

(1) The Court of Directors were to hold office for 4 years instead of being elected every year.

(2) A Governor-General and a Council composed of 4 Councillors were appointed, in whom the whole civil and military Government of Bengal, Bihar and Orissa vested.

(3) Both legislative and executive powers vested in the Governor-General in Council over the Provinces of Bengal, Bihar and Orissa. The Governor-General in Council had powers of control and superintendence over the Governors of Bombay and Madras ; but he had no legislative power except over Bengal, Bihar and Orissa.

(4) The Governor-General in Council was to obey the orders of the Court of Directors.

(5) A Supreme Court was appointed for Bengal.

(6) The Regulations made by the Governor-General in Council had to be registered in the Supreme Court, in order that they may be valid.

13. Parliamentary control and superintendence over the affairs of the Company were gradually enlarged, by Parliamentary legislation from time to time. By the Act of 1781, the Court of Directors were required to send to the Lords Commissioners of His Majesty's Treasury, a copy of all the orders which they intended to send to India relating to the management of the revenues of the Company, and to one of the Principal Secretaries of State a copy of all intended orders relating to the Civil and Military Officers and the Government of the Company, and the Court was bound to obey such instructions as they may receive from one of the Principal Secretaries of State. The Act of 1781 also empowered the Governor-General in Council, from time to time, to frame regulations for the Provincial Courts and Councils, without reference to the Supreme Court.

This Parliamentary control was strengthened by the Act of 1784 which appointed the 'Commissioners for the affairs of India'—commonly called the Board of Control, and on which was conferred the authority to "superintend, direct and control all acts, operations and concerns, relating to the civil or military Government, or the Revenues, of the Indian Possession." **The Board of Control.** As amended by the Act of 1793, this Board consisted of 5 members of the Privy Council, including the Secretary of State and the Chancellor of the Exchequer. To this Board were to be sent, copies of all orders, communications or despatches sent or received by the Court of Directors, and the Court of Directors were required to obey all the orders and directions of the Board of Control. Thus a dual authority was set up—the East India Company with the Court of Directors, acting side by side with the Board of Control acting through one of the Secretaries of State who was responsible to Parliament. The Act made elaborate provisions for regulating the relations between the Court and the Board. The control of the Governor-General and Council over the Governments of the minor Presidencies was also enlarged, and a similar control over the Governor-General in Council was vested in the Court of Directors. The number of Councillors both for the Governor-General and the Governors was reduced to 3. The Commander-in-Chief was to be a member of the Governor-General's Council.

By an Act of 1786 the power was conferred on the Governor-General, in special cases, to override the majority of his Council and act on his own responsibility, and this power was extended to the Governors of the other Presidencies, by the Charter Act of 1793. Under the Act of 1785, the Court of Directors were empowered to appoint three of its members as a Secret Committee. The Councils of Madras and Bombay were re-modelled on the Council at Bengal. The three Councillors were to be appointed by the Court of Directors from

among the 'senior merchants' of 10 years standing, and the Directors may appoint the Commander-in-Chief of each Presidency as an additional member. The appointment of the Governor and the Commander-in-Chief vested in the Court of Directors, subject to the approval of the Crown.

The Governor-in-Council of Madras first received legislative powers by an Act of 1800 which also established a Supreme Court for Madras ; Bombay got legislative powers in 1807 and a Supreme Court in 1823.

The Charter Act of 1813 conferred power on Local Governments to impose taxes on persons subject to the jurisdiction of the Supreme Court.

14. By the Charter Act of 1833 important changes were introduced. The Court of Directors became entirely subordinate to the Board of Control, and all orders, letters and other communications whatsoever, relating to Indian Affairs or to any public matter 'shall not be sent or given by the Directors until the same should have been approved by the Board.' The legislative powers vested in the Local Governments were

abolished, and sole legislative powers vested in the Governor-General in Council, who, hitherto styled only as the Governor-General of Bengal, was hereafter to be styled the Governor-General of India. A fourth councillor to be appointed by the Court of Directors subject to the approval of the Crown, was added to the Council of the Governor-General. He was solely concerned with legislation. He had no power to sit and vote in the Executive Council.

The Governor-General of India.

The Legislative Councillor.

The laws passed by the Governor-General in Council may be disallowed by the Court of Directors. They had to be laid before Parliament.

In 1836, a new Province was carved out of Bengal and styled North Western Province (present U. P.), and a Lieutenant-Governor was appointed for this Province.

The laws passed by the Governor-General in Council under the Act of 1833 were to have the force of Acts of Parliament. The laws passed subsequent to 1833 were styled Acts. Those passed prior to 1833 were known as Regulations.

15. The Act of 1853 introduced considerable changes. The fourth Councillor, added by the Act of 1833, was enabled to sit and vote just

like the ordinary Councillors. All Councillors were appointed by the Directors, the appointment being subject to the approval of the Crown. The Council was enlarged for legislative purposes by the addition of certain legislative members, of whom, two were to be the Chief Justice, and a Puisne Judge of the Supreme Court of Bengal, and four Company's servants of 10 years standing, appointed by each one of the Local Governments of Bengal, Bombay, Madras and North-Western Province.

Thus, the Legislative Council of the Governor-General in 1853 consisted of the following 12 members :—

The Governor-General, the Commander-in-Chief, 4 ordinary members of the Governor-General's Council, the Chief Justice and a Puisne Judge of Bengal, and 4 members from the four Provinces.

The sittings of the Legislative Council were made public, and their proceedings were officially published.

In 1854, a Lieutenant-Governor was appointed for Bengal, and the Governor-General ceased to be the Governor of Bengal. Chief Commissionerships and Lieutenant-Governorships were established, from time to time, in various parts of India, as the Company's possessions expanded.

CHAPTER III.

Administration under the Crown till the inauguration of the Minto-Morley Reforms.

16. After the Indian Mutiny, the Government of India was transferred from the Company to the Crown, by the Government of India Act of 1858. Dual Government by the Board of Control and by the Court of Directors was abolished, and the Act declared that India was to be governed directly by and in the name of the Crown, acting through a Secretary of State, to whom were transferred the powers formerly exercised either by the Court of Directors or by the Board of Control.

All future appointments vested in the Crown. The appointments of Governor-General, Governors and the Advocate-General of the Supreme Court, till then made by the Court of Directors, were thenceforth to be made by the Crown under the Royal Sign Manual. Appointments of Lieutenant-Governors and Commissioners were to be made by the Governor-General, subject to the approval of the Crown. The conditions as to appointments made in India remained as before.